



C.R.P.(MD)No.2937 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 27.11.2023

PRONOUNCED ON: 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2937 of 2023

1.Vaithiyanathan
2.Vijaya Nirmala : Petitioners/Petitioners

Vs.

1.Balasubramaniyan
2.Vettriselvi : Respondents/Respondents

PRAYER:- Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decreetal order, dated 01.02.2023 in Tr.O.P.No.173 of 2022, on the file of the Principal District Judge, Thanjavur.

For Petitioners : Mr.N.Balakrishnan



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C.R.P.(MD)No.2937 of 2023

ORDER

The Civil Revision Petition is directed against the order passed in Tr.O.P.No.173 of 2022, dated 01.02.2023, on the file of the Principal District Judge, Thanjavur.

2. The revision petitioners as plaintiffs have filed the suit claiming permanent injunction restraining the defendants and their men in any manner interfering with their peaceful possession and enjoyment of the suit property along with an application for temporary injunction restraining the respondents/defendants from interfering with the harvesting of paddy crops by the plaintiffs and from in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the suit property till the disposal of the suit.

3. The revision petitioners have earlier filed the suit and injunction petition before the vacation Court and the same were sent to the District Munsif cum Judicial Magistrate, Orathanadu on the point of territorial jurisdiction. The revision petitioners, by alleging that despite the



C.R.P.(MD)No.2937 of 2023

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objections raised by the petitioners' side for granting adjournment, injunction petition was being adjourned and in the meanwhile, the respondents, with their hoodlums harvested the paddy planted by the petitioners in the suit property, have filed an application in I.A.No.155 of 2022 to deposit the amount of Rs.24,000/- derived from the harvest by the respondents. It is the further case of the revision petitioner that the above petition was also being adjourned for filing of the counter, that since the petitioners were insisting for enquiry in the injunction petition, the same was taken up on 15.07.2022 and on the side of the petitioners, 22 documents came to be exhibited and thereafter, the case was adjourned for the respondents' side enquiry, that the injunction petition was thereafter adjourned again and again without any progress, that the learned District Munsif at last adjourned the matter "for Orders" on 06.09.2022, but without pronouncing the orders, the case was adjourned to 09.09.2022 and then to 16.09.2022 and 19.09.2022 and then to 19.10.2022, that the petitioners were then constrained to file a petition to advance the hearing from 19.10.2022 and on the basis of the orders passed therein, the injunction petition was preponed to 28.09.2022 and the matter was being adjourned again and again for orders, that the petitioners being small farmers have been suffering mental agony and



C.R.P.(MD)No.2937 of 2023

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inexplicable hardship for the inordinate delay and the officer's non-inclination to pass orders and that since the suit property is situated nearby to the District Munsif Court, Pattukkottai, have filed the transfer petition in Tr.O.P.No.173 of 2022 seeking orders to transfer the suit in O.S.No.81 of 2022 pending on the file of the District Munsif cum Judicial Magistrate, Orathanadu to the District Munsif, Pattukkottai with a specific direction to dispose of the injunction petition in I.A.No.130 of 2022 within a stipulated time.

4. The learned Principal District Judge, upon perusing the materials available on record and on hearing the arguments of both sides, has passed the impugned order dated 01.02.2023 dismissing the transfer petition with a direction to the trail Court to dispose of the petition in I.A.No.130 of 2022 within 30 days from the date of receipt of a copy of that order. Aggrieved by the impugned order, the petitioners/plaintiffs have preferred the present Civil Revision Petition.

5. The learned Counsel for the revision petitioners would submit that though the Principal District Court has passed the impugned order as early as on 01.02.2023 with a direction to dispose of the injunction



C.R.P.(MD)No.2937 of 2023

petition within 30 days from the date of receipt of a copy of that order, the District Munsif has not chosen to proceed with the injunction petition and pass orders.

6. When the matter was taken up for hearing on 09.11.2023, considering the submission made by the learned Counsel for the revision petitioners that the injunction petition was not disposed of, despite the directions of the Principal District Court and taking note of the entries in “B” diary, this Court directed the Registry to call for a report from the concerned Court.

7. In pursuance of the direction, the District Munsif cum Judicial Magistrate, Orathanadu has submitted a letter dated dated 17.11.2023 stating that I.A.No.130 of 2022 in O.S.No.81 of 2022 is pending and the same stands posted to 20.11.2023 for steps of the first defendant/first respondent. The learned District Munsif has not offered any reason or explanation for keeping the injunction petition pending, despite the specific direction issued by the learned Principal District Judge, Thanjavur.



C.R.P.(MD)No.2937 of 2023

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8. It is seen from the records that the learned Counsel for the revision petitioners before this trial Court has filed a memo that the defendants are prolonging to file the counter, that after the filing of the counter, enquiry was commenced on 15.07.2022 and after hearing the petitioners' side enquiry, the case was adjourned to 27.07.2022 for respondents' side enquiry and at their request, the same was being adjourned to 03.08.2022, 17.08.2022, 25.08.2022 and 01.09.2022, that since the respondents' side has not chosen to argue the matter, the petition was posted for orders on 06.09.2022 with liberty to argue the matter and the petition was again adjourned to 06.09.2022 and 09.09.2022 with the same endorsement and that on 16.09.2022, the petitioners' side enquiry was heard in part and the case was adjourned to 19.09.2022 and then to 23.09.2022, 28.09.2022 and 12.10.2022 and thereafter another petition in I.A.No.281 of 2022 was shown to be pending.

9. It is further evident from the records that the order passed in Tr.O.P., was brought to the notice of the learned District Munsif on 17.02.2023 and even thereafter, the case was being adjourned for four hearing and thereafter the respondents' side filed an application under



C.R.P.(MD)No.2937 of 2023

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Rule 74 of Civil Rules of Practice and again the petition was being adjourned again and again.

10. Considering the above, as rightly contended by the learned Counsel for the revision petitioners, this Court is at lost to understand as to why the learned District Munsif, even after reserving the petition for orders, has been adjourning the matter again and again despite the specific objections for granting adjournments.

11. As already pointed out, the respondents have filed the application under Rule 74 of Civil Rules of Practice to send for the documents filed in O.S.No.81 of 2022, so as to enable them to produce the same in the injunction petition in I.A.No.130 of 2022 pending for enquiry. As rightly contended by the learned Counsel for the revision petitioners, considering the above facts and circumstances, it is clearly evident that the respondent has been protracting the matter and the District Munsif, without taking note of the dilatory tactics adopted by the respondents, has been adjourning the matter again and again. Consequently, this Court has no hesitation to hold that for the reasons best known to them, the respondents have been protracting the



C.R.P.(MD)No.2937 of 2023

proceedings without taking part in the enquiry and the learned trial Judge, without pronouncing any order.

12. No doubt, as rightly pointed out by the learned Counsel for the respondents, the contention of the petitioners that the suit property is situated nearer to the District Munsif, Pattukkottai, cannot be taken as a valid reason or ground to transfer the case to that Court. But at the same time, taking note of the conduct of the respondents and also the non-inclination of the trial Court to pronounce the orders, despite the specific directions given by the learned Principal District Judge, this Court is inclined to transfer the suit in O.S.No.81 of 2022 from the file of the District Munsif cum Judicial Magistrate Court, Orathanadu to the Court of the District Munsif, Pattukkottai.

13. In view of the above, the suit in O.S.No.81 of 2022 pending on the file of the District Munsif cum Judicial Magistrate Court, Orathanadu is ordered to be withdrawn from the file of the District Munsif cum Judicial Magistrate Court, Orathanadu and transfer the same to the file of the District Munsif Court, Pattukkottai. The learned District Munsif cum Judicial Magistrate, Orathanadu is hereby directed to transmit the entire



C.R.P.(MD)No.2937 of 2023

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records relating the suit in O.S.No.81 of 2022 within three days from the date of receipt of a copy of this order and on receipt of the same, the learned District Munsif, Pattukkottai is directed to take the same on its file immediately and then proceed with the enquiry in the injunction application and dispose of the same within a period of one month from the date of receipt of the records. The Registry is directed to call for explanation from the learned District Munsif cum Judicial Magistrate, Orathanadu.

14. With the above directions, the Civil Revision Petition is disposed of. There shall be no order as to costs.

20.12.2023

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

Note: Issue order copy on 02.01.2024

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To

1. The Principal District Court, Thanjavur.

2. The Record Keeper,
Vernacular Section,



C.R.P.(MD)No.2937 of 2023

Madurai Bench of Madras High Court,
Madurai.

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C.R.P.(MD)No.2937 of 2023

K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

C.R.P.(MD)No.2937 of 2023

20.12.2023